

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *eg* D.C.
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INVENTORY LOCATOR SERVICE, LLC,)
)
Plaintiff/Counter-Defendant,)
)
v.)
)
PARTSBASE, INC.,)
)
Defendant/Counter-Plaintiff.)
)

THOMAS W. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TENNESSEE

No. 02-2695 Ma/V

ORDER ADOPTING REPORT AND RECOMMENDATION OF MAGISTRATE DENYING
PLAINTIFF'S MOTION TO DISMISS

Before the court is Plaintiff/Counter-Defendant Inventory Locator Service, LLC's ("ILS") motion to dismiss the counterclaims of Defendant/Counter-Plaintiff PartsBase, Inc. ("PartsBase") because of spoliation of the evidence, filed on June 20, 2005. In the alternative, ILS requests that the court impose an adverse inference on PartsBase as to the destruction of evidence or other sanction as the court finds appropriate. Finally, ILS requests that the court order PartsBase to pay ILS' legal fees and costs incurred in investigating, analyzing, and litigating the counterclaim.

PartsBase filed a response on July 11, 2005. ILS filed a reply in support of its motion on July 25, 2005, and PartsBase responded on August 5, 2005. This court referred the matter to

the magistrate judge who held an evidentiary hearing on October 5, 2005, and filed a report on October 19, 2005, recommending that ILS' motion be denied. ILS has not objected to the report and recommendation. Based on the findings and conclusions of the magistrate judge, the court ADOPTS the report and recommendation and DENIES ILS' motion to dismiss or to impose other sanctions.

So ordered this 17th day of November 2005.



SAMUEL H. MAYS, JR.

UNITED STATES DISTRICT JUDGE



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Honorable Samuel Mays
US DISTRICT COURT